

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

GANGSTA' KO-LOFF BISHOP GOSPIDIAN)

Petitioner,)

v.)

BRADLEY TRATE,)

Respondent.)

Case No. 1:20-CV-120

MEMORANDUM ORDER

This action was received by the Clerk of Court on May 19, 2020. The matter was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Petitioner argues that he is actually innocent of being a felon in possession of a firearm based on the United States Supreme Court decision in *Rehaif v. United States*, ___ U.S. ___, 1339 S.Ct. 2191 (2019). The Court stayed this case while the government appealed the outcome in a similar case in *United States v. Nasir*, 982 F.3d 144 (3d Cir. 2020). Meanwhile, the United States Supreme Court issued a decision in *Greer v. United States*, ___ U.S. ___, 141 S.Ct. 2090 (2021) and vacated the decision in *Nasir*. Thereafter, Judge Lanzillo lifted the stay in this case and allowed the filing of an amended petition for writ of habeas corpus.

On September 6, 2022, Magistrate Judge Lanzillo issued a Report and Recommendation recommending that the petition be dismissed. Despite being given adequate time to do so (even after a motion for the appointment of counsel was denied), Petitioner did not file any Objections to the Report and Recommendation.

“If a party objects timely to a magistrate judge's report and recommendation, the district court must ‘make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.’” *EEOC v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) *quoting* 28 U.S.C. § 636(b)(1). Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72(D)(2).

After *de novo* review of the amended petition and response, together with the report and recommendation, the following order is entered:

AND NOW, this 21st day of December 2022;

IT IS ORDERED that the petition for writ of habeas corpus be dismissed with prejudice.

AND, IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on September 6, 2022 [ECF No. 26] is adopted as the opinion of the court.

The Clerk of Court is directed to mark this case “CLOSED.”

/s/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
United States District Judge